

## Sentence Enhancements and Race

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### Key Findings

- Black, Hispanic, American Indian, and Asian and Pacific Islander individuals are more likely to receive weapon enhancements than White individuals convicted for the same types of crimes.
- Given a weapon enhanced sentence, Black individuals received 1.5 times more enhancements, on average, than White individuals.
- The probability of a VUCSA enhancement did not vary significantly by race and ethnicity.
- Concurrent versus consecutive weapons enhancements could impact sentence length disparity in the current prison population given the overrepresentation of the Black, Hispanic, and Asian and Pacific Islander populations among those with two or more weapon enhancements.

### Background

Efforts in the legislature and courts to address exceptional prison sentences affected by sentencing enhancements directly impact the department's prison caseload and ability to provide reentry programs, as well as racial disparities in criminal justice outcomes reflected in the state's incarcerated population. This report describes the relationship between race and ethnicity and weapons and Violation of the Uniform Controlled Substance Act (VUCSA) enhancements in the prison population admitted since 2016.

### Methods

**Data Source(s).** OMNI as of February 5, 2022.

**Population.** Given all RCW violations leading to a weapon or VUCSA enhanced sentence in the past five years, data included all individuals found guilty of such a violation whether their sentence was enhanced or not. An additional dataset included all incarcerated individuals in a prison facility on January 31, 2022.

**Analytic Approach.** The 1) probability of any enhancement, and 2) number of enhancements was modeled as dependent on individuals' race and ethnicity and offense type. Sentence length was modeled as dependent on race and ethnicity, most serious offense, age, conviction history, and number of enhancements. Finally, impacts on sentence length affected by concurrent versus consecutive weapon enhancements were estimated conditional on race and total enhancement time.

### Results

Following a description of the overall probability of a sentence enhancement by offense type, results describe 1) the probability of any weapons enhancement, and the number of weapons enhancements by individuals' race and ethnicity, 2) the probability of any VUCSA enhancement by race and ethnicity and 3) the estimated impact of enhancements, race, age, conviction history, and offense seriousness on sentence length.

**Probability of weapons enhancements.** Table 1 shows the frequency and probability of weapons enhancements for offense types accounting for 91% of weapons enhanced sentences since 2016.

*Table 1. Probability of weapon enhancements by offense type, 2016-2021*

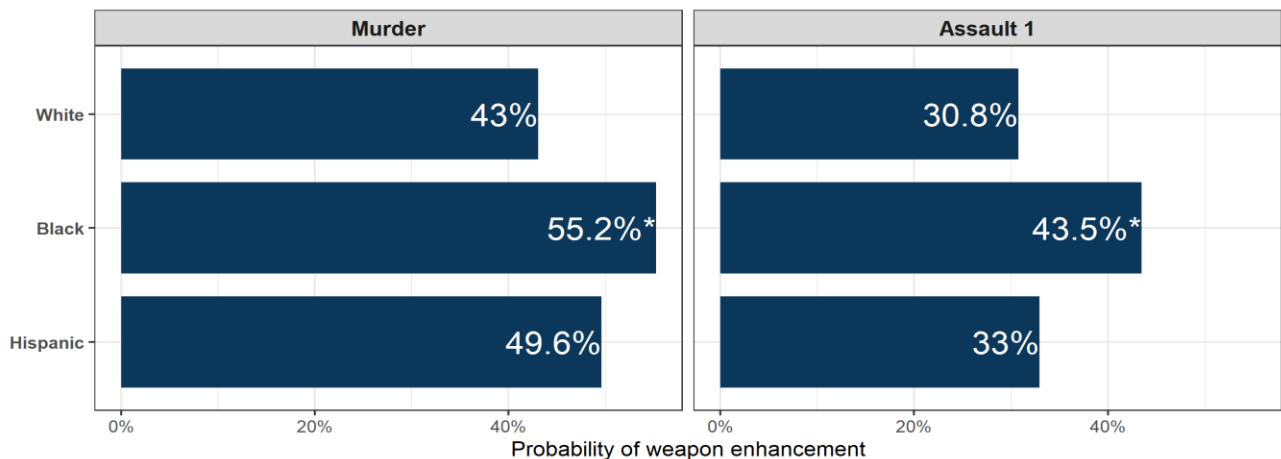
	Sentenced	With Weapons Enhancement	Probability of Enhancement
Murder	654	300	45.9%
Assault 1	377	138	36.6%
Manslaughter	218	58	26.6%
Assault 2	2,838	643	22.7%
Robbery 1	1,204	187	15.5%
Burglary 1	351	48	13.7%
Robbery 2	998	71	7.1%
Deliver drugs or possess with Intent	3,019	96	3.2%
Assault 3	2,781	52	1.9%

*NOTE:* Subcategories for murder and manslaughter offenses (i.e., Murder 1, Murder 2) are combined.

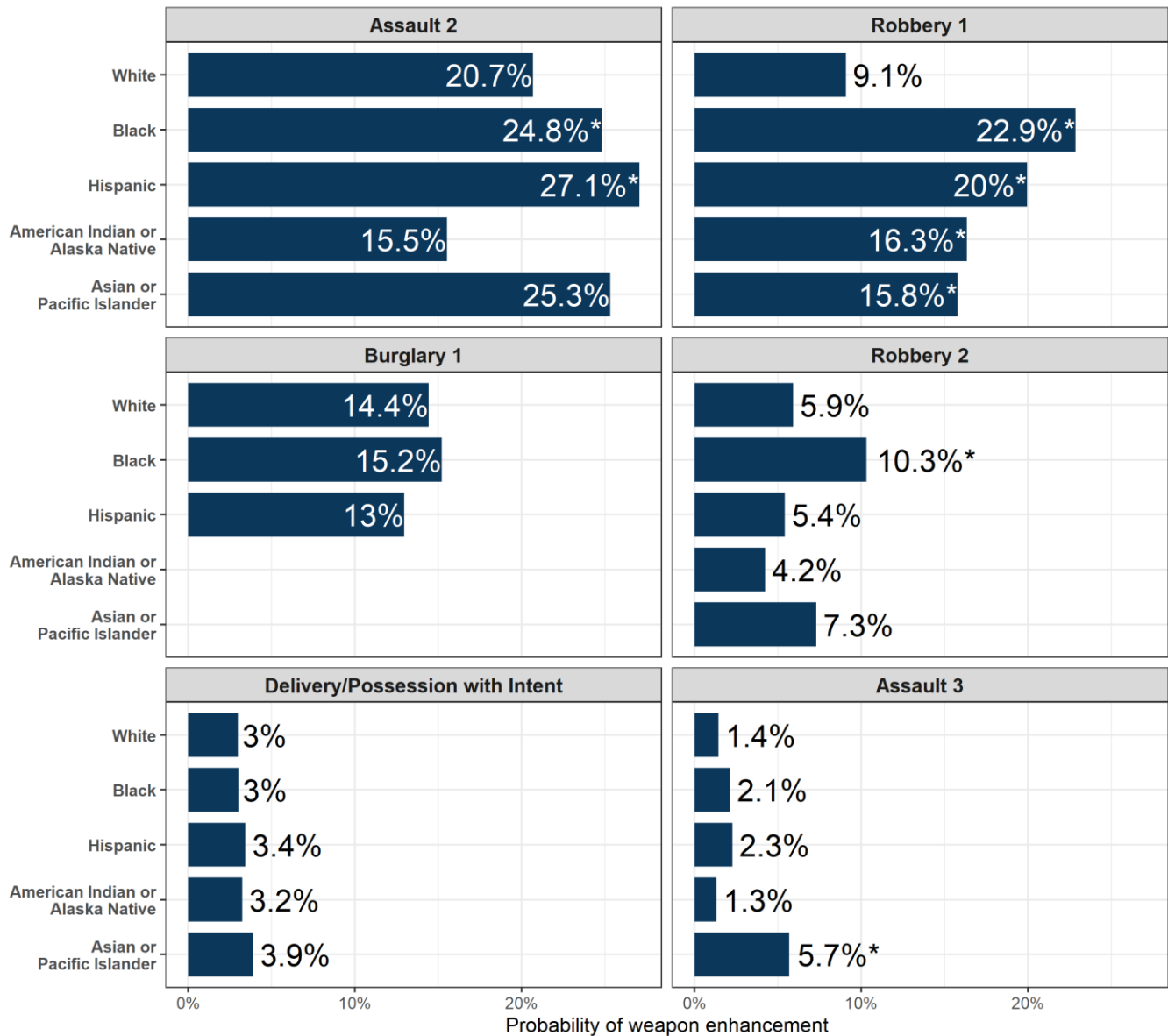
Differences in the probability of an enhancement affected by race and ethnicity are described below and shown in Figure 1.

**Black.** Black individuals had a higher probability of receiving a weapons enhancement across all offense types compared to White individuals convicted for the same types of offenses except Burglary 1 and drug-related offenses.

*Figure 1. Probability of weapon enhancement by offense type and race and ethnicity.*



\*95% or greater probability that group estimate exceeds that of White population. Estimates are median posterior probability of enhancement dependent on race and offense type interaction. Group size < 50 are not shown.



\*95% or greater probability that group estimate exceeds that of White population. Estimates are median posterior probability of enhancement dependent on race and offense type interaction. Sentenced population < 50 are not shown. White population was the only group > 50 for Manslaughter convictions.

**Hispanic.** Hispanic individuals had a higher probability of receiving a weapons enhancement than White individuals given an Assault 2 or Robbery 1 conviction.

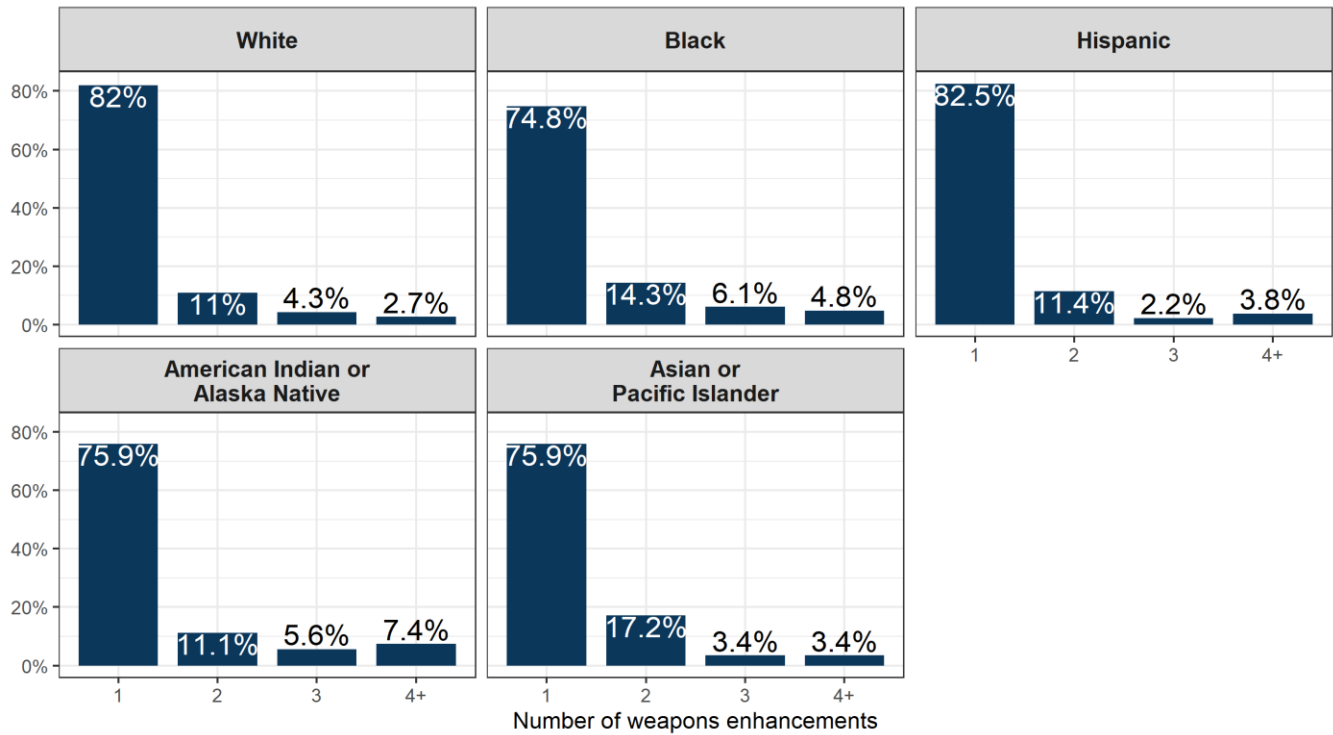
**American Indian and Alaska Native.** Given a Robbery 1 conviction, American Indian and Alaska Native individuals more likely to receive a weapons enhancement than White individuals convicted for the same offense.

**Asian and Pacific Islander.** Asian and Pacific Islander individuals had a higher probability of receiving a weapons enhancement than White individuals given a Robbery 1 or Assault 3 conviction.

Group differences in the probability of an enhancement for Manslaughter, Burglary 1, or drug offenses were not observed or were uncertain given the data.

**Number of weapons enhancements.** Figure 2 shows the distribution of the number of weapons enhancements for convictions with any weapons enhancement by race and ethnicity. Black individuals were estimated to have 1.5 times more enhancements, on average, than White individuals given a weapon enhanced sentence.

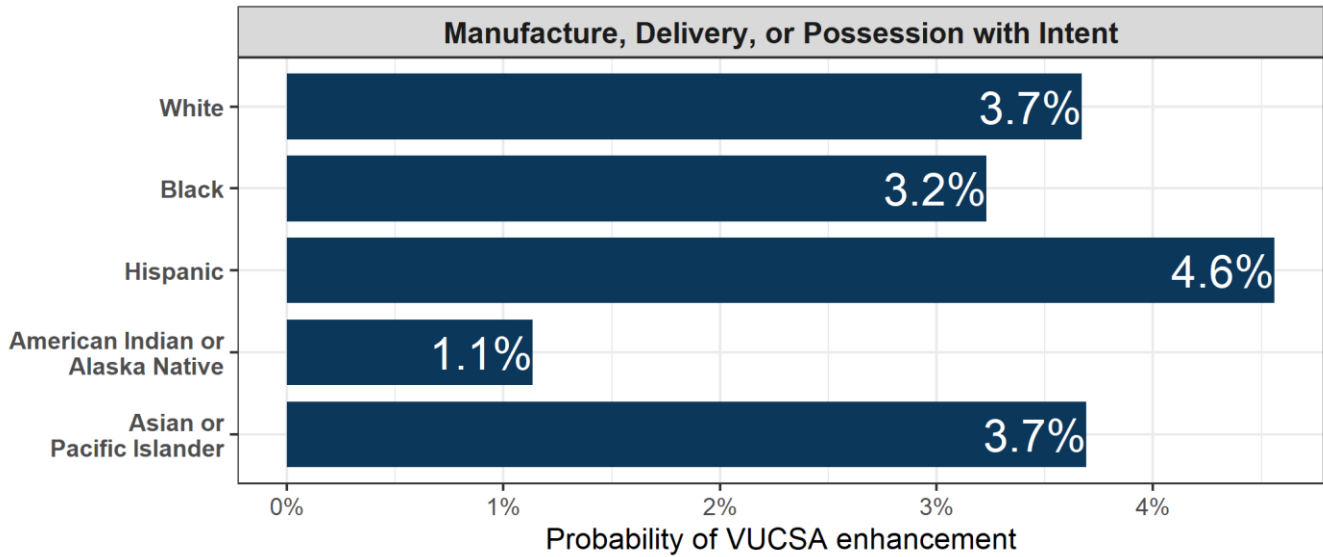
*Figure 2. Proportion of weapon enhanced sentences by number of enhancements and race and ethnicity.*



**Probability of VUCSA enhancements.** Nearly all VUCSA-enhanced sentences since 2016 (145 out of 152, or 95%) were related to manufacture, delivery, or possession with intent to deliver controlled substances. Of the nearly 4,000 people admitted to prison with a related RCW violation since 2016, 3.8% were admitted with a VUCSA-enhanced sentence\*. Probability of VUCSA enhancement, shown in Figure 4, did not vary significantly by race and ethnicity.

\* Compared to weapons enhancements, VUCSA enhancements were associated with a larger set of “Manufacture, Delivery or Possession with Intent” RCW violations.

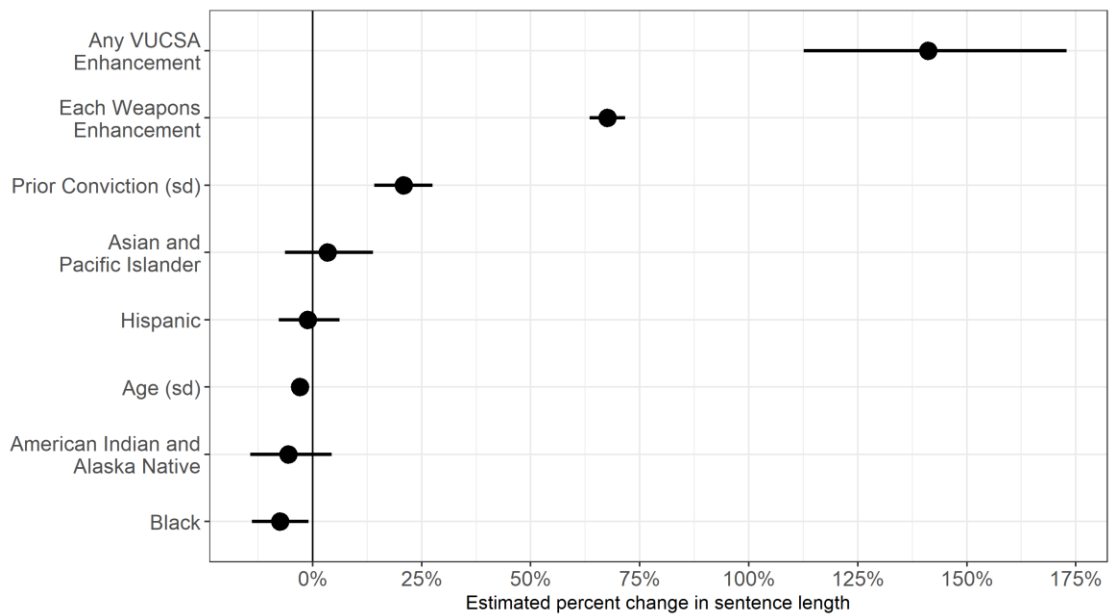
Figure 3. Probability of VUCSA enhancement by and race and ethnicity.



**Sentence length.** Sentence length was modeled as dependent on seriousness level of the most serious convicted offense, any VUCSA enhancement, the total number of weapons enhancements, individuals' conviction history, age, and race and ethnicity where average sentence length was assumed to vary across seriousness levels. Estimated percent change in sentence length associated with select variables is shown in Figure 4.

Given average age and conviction history and allowing effects of race and ethnicity to vary across offense seriousness levels, the association between race and ethnicity and sentence length was uncertain given the data. Weapon and VUCSA enhancements, however, significantly increased sentence length. Each weapon enhancement, for instance, was estimated to affect a 62% increase in sentence length, while a VUCSA enhancement was expected to more than double sentence length.

Figure 4. Point estimates and 90% credible interval of percent change in sentence length.



NOTE: Point estimates are posterior medians.

**Concurrent versus consecutive weapon enhancements.** The potential impact of concurrent versus consecutive weapon enhancements was estimated with analysis of covariance (ANCOVA), modeling the difference between individuals’ total enhancement time and their maximum enhancement time as dependent on race and total enhancement time.

As shown in Table 2, an average 97 month decrease in sentence length affected by concurrent versus consecutive weapon enhancements did not vary significantly by race or ethnicity. However, differences affected by concurrent enhancements would potentially impact racial disparity in sentence length given the Black, Hispanic, and Asian or Pacific Islander populations’ overrepresentation among those with multiple weapons enhancements.

*Table 2. Estimated difference in enhancement time affected by concurrent versus consecutive weapon enhancements in population incarcerated on January 31, 2022 with multiple weapon enhancements.*

	Total Incarcerated (%)	Multiple weapons enhancements (%)	Percent with multiple enhancements	Estimated difference (months)
Total	12,880 (100%)	924 (100%)	7.2%	-97.1
White	7,061 (54.8%)	353 (38.8%)	5.0%	-98.6
Black	2,286 (17.7%)	288 (31.6%)	12.6%	-97.1
Hispanic	2,019 (15.7%)	143 (15.7%)	7.1%	-94.3
American Indian or Alaska Native	828 (6.4%)	43 (4.7%)	5.2%	-93.3
Asian or Pacific Islander	550 (4.3%)	83 (9.1%)	15.1%	-97.5

## Limitations

Although analyses account for variability affected by controls (e.g., offense type, offense seriousness, conviction history, age), methods to balance variables by matching on race and ethnicity were not used. Matching would likely increase estimate precision. Additionally, although data represent convictions since 2016 from across the state of Washington, time and geography were not included as factors affecting enhancements and sentence length. While potentially introducing issues with small numbers, accounting for time and place would improve localized estimation of race effects.

## Summary

Analysis of the relationship between weapon and drug enhancements, sentence length, and race and ethnicity found significant group differences among individuals with similar offenses in 1) the chances of receiving a weapon enhancement, and 2) given a weapon enhanced sentence, the total number of enhancements received. Concurrent versus consecutive weapons enhancements would potentially impact racial disparities in sentencing given the overrepresentation of Black, Hispanic, and Asian and Pacific Islander individuals among those with two or more weapon enhancements.